

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to implement the provisions of)	
Section 6x of 2016 PA 341.)	Case No. U-20747
_____)	

At the May 19, 2020 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Daniel C. Scripps, Commissioner
Hon. Tremaine L. Phillips, Commissioner

ORDER AND NOTICE OF OPPORTUNITY TO COMMENT

On December 21, 2016, 2016 PA 341 (Act 341) was signed into law. Act 341 amends 1939 PA 3 by, among other things, adding Section 6x, which requires the Commission to authorize a shared savings mechanism (SSM) by January 1, 2021. Section 6x(1) states:

Subject to section 6a(13), in order to ensure equivalent consideration of energy waste reduction resources within the integrated resource planning process, the commission shall by January 1, 2021 authorize a shared savings mechanism for an electric utility to the extent that the electric utility has not otherwise capitalized the costs of the energy waste reduction, conservation, demand reduction, and other waste reduction measures.

Section 6x(2) through (4) provide specific methodologies related to calculating an SSM.

Act 341 also added subsection (13) to Section 6a, which states:

The commission shall consider the aggregate revenues attributable to revenue decoupling mechanisms, financial incentives, and shared savings mechanisms the commission has approved for an electric utility relative to energy waste reduction, conservation, demand-side programs, peak load reduction, and other waste

reduction measures. The commission may approve an alternative methodology for a revenue decoupling mechanism authorized under subsection (12), a financial incentive authorized under section 75 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1075, or a shared savings mechanism authorized under section 6x if the commission determines that the resulting aggregate revenues from those mechanisms would not result in a reasonable and cost-effective method to ensure that investments in energy waste reduction, demand-side programs, peak load reduction, and other waste reduction measures are not disfavored when compared to utility supply-side investments. The commission's consideration of an alternative methodology under this subsection shall be conducted as a contested case pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

Subsection (12) of Section 6a, also added by Act 341, allows for revenue decoupling mechanisms to be approved for electric utilities under the Commission's jurisdiction with fewer than 200,000 customers. Subsection (12) states:

Subject to subsection (13), if requested by an electric utility with less than 200,000 customers in this state, the commission shall approve an appropriate revenue decoupling mechanism that adjusts for decreases in actual sales compared to the projected levels used in that utility's most recent rate case that are the result of implemented energy waste reduction, conservation, demand-side programs, and other waste reduction measures, if the utility first demonstrates the following to the commission:

- (a) That the projected sales forecast in the utility's most recent rate case is reasonable.
- (b) That the electric utility has achieved annual incremental energy savings at least equal to the lesser of the following:
 - (i) One percent of its total annual retail electricity sales in the previous year.
 - (ii) The amount of any incremental savings yielded by energy waste reduction, conservation, demand-side programs, and other waste reduction measures approved by the commission in that utility's most recent integrated resource plan.

2016 PA 342 (Act 342) was also signed into law on December 21, 2016, amending 2008 PA 295 (Act 295). Act 295, as amended by Act 342, provides a framework for energy waste reduction (EWR) programs to be offered by electric and natural gas utilities in Michigan. Section 75 of Act 295, as amended states:

(1) An energy waste reduction plan of a provider whose rates are regulated by the commission may authorize a commensurate financial incentive for the provider for exceeding the energy waste reduction standard. Payment of any financial incentive authorized in the energy waste reduction plan is subject to the approval of the commission.

(2) The total amount of a financial incentive for an electric provider that achieves annual incremental savings of greater than 1.5% of its total annual retail electricity sales in megawatt hours in the preceding year or a natural gas provider that achieves annual incremental savings of greater than 1% of its total annual retail natural gas sales in decatherms in the preceding year shall not exceed the lesser of the following amounts:

(a) 30% of the net present value of life-cycle cost reductions experienced by the provider's customers as a result of implementation, during the year for which the financial incentive is paid, of the energy waste reduction plan.

(b) 20% of the provider's actual energy waste reduction program expenditures for the year.

(3) The total amount of the financial incentive for an electric provider that achieves annual incremental savings of greater than 1.25% but not greater than 1.5% of its total annual retail electricity sales in megawatt hours in the preceding year or a natural gas provider that achieves annual incremental savings of greater than 0.875% but not greater than 1% of its total annual retail natural gas sales in decatherms in the preceding year shall not exceed the lesser of the following amounts:

(a) 27.5% of the net present value of life-cycle cost reductions experienced by the provider's customers as a result of implementation, during the year for which the financial incentive is paid, of the energy waste reduction plan.

(b) 17.5% of the provider's actual energy waste reduction program expenditures for the year.

(4) The total amount of a financial incentive for an electric provider that achieves annual incremental savings of at least 1.0% but not greater than 1.25% of its total annual retail electricity sales in megawatt hours in the preceding year or a natural gas provider that achieves annual incremental savings of at least 0.75% but not greater than 0.875% of its total annual retail natural gas sales in decatherms in the preceding year shall not exceed the lesser of the following amounts:

(a) 25% of the net present value of life-cycle cost reductions experienced by the provider's customers as a result of implementation, during the year for which the financial incentive is paid, of the energy waste reduction plan.

(b) 15% of the provider's actual energy waste reduction program expenditures for the year.

The Commission has authorized financial incentive mechanisms (FIMs) for several utilities under its jurisdiction pursuant to this section since Act 295 took effect. Specifically, in 2009, the Commission approved FIMs, through a contested case process, for Consumers Energy Company (Consumers), DTE Electric Company (DTE Electric), and DTE Gas Company (DTE Gas).¹ *See*, September 29, 2009 orders in Case Nos. U-15805, U-15806, and U-15890. The approval of the incentives was based on two criteria: cost-effectiveness scores and the degree to which a utility's EWR plans exceeded minimum statutory savings requirements, thus justifying an incentive. Subsequently, the Commission approved FIMs for Indiana Michigan Power Company (I&M), Upper Peninsula Power Company (UPPCo), and SEMCO Energy Gas Company (SEMCO). Current FIMs approved by the Commission for EWR programs can be found in Case No. U-20372 for Consumers, Case No. U-20373 for DTE Electric, Case No. U-20429 for DTE Gas, Case No. U-18263 for I&M, Case No. U-20376 for UPPCo, and Case No. U-20431 for SEMCO.

The approved FIMs are reassessed every other year in the EWR biennial plan dockets. The incentive structures have changed over time to encourage utility providers to put more emphasis on programs that are most beneficial to Michigan customers. Along with exceeding the minimum statutory savings requirements, specific utility metrics were developed to increase programs that provide longer life measures, provide greater funding and programming to low-income customers, and provide new and innovative offerings to low-income multi-family housing communities.

¹ DTE Electric was formerly known as The Detroit Edison Company and DTE Gas was formerly known as Michigan Consolidated Gas Company.

On September 15, 2017, the Commission issued an order in Case No. U-18369 (September 15 order) concluding that approval of a financial incentive for demand response (DR) would be reasonable and that providers and other interested parties may propose appropriate incentives as part of the DR reconciliation proceeding. *See*, September 15 order, p. 10. The Commission subsequently approved an FIM for Consumers' DR program in the July 18, 2019 order in Case No. U-20164. The Commission has also approved revenue decoupling mechanisms for Consumers' gas business in its September 26, 2019 order in Case No. U-20322, for DTE Gas in its September 13, 2018 order in Case No. U-18999, and for I&M in its January 23, 2020 order in Case No. U-20359.

The Commission recognizes that there is interplay and overlap between the different sections of Acts 341 and 342 cited above, and that there is a lack of clarity as to whether obligations around implementation of provisions related to authorizing SSMs under Section 6x of Act 341 have been met by previous Commission actions or whether additional steps should be taken. As a result, the Commission seeks comment from interested parties relative to these requirements. Specifically, the Commission is interested in responses to the following questions:

- Does previous Commission approval of a financial incentive under Section 75 of Act 342 fulfill the requirements of Section 6x of Act 341? If not, does the Commission need to approve an SSM for each eligible electric utility by January 1, 2021? Or is approval of a process for an electric utility to request an SSM sufficient to constitute "authorization" under Section 6x of Act 341?
- How would interested parties recommend that the Commission interpret the requirements of Section 6a(13), including what it means for investments to be "disfavored when compared to utility supply-side investments?" How would interested parties interpret how distinct statutory requirements related to financial incentives are supposed to work together, including the alternative methodology for incentives described in Section 75 of Act 342, or a revenue decoupling mechanism under Section 6a(12) of Act 341, in light of the language in MCL 460.6a(13)?
- How should the Commission interpret the language in Section 6x(1) requiring the Commission to authorize an SSM for an electric utility *to the extent that the electric utility*

has not otherwise capitalized the costs of the energy waste reduction, conservation, demand reduction, and other waste reduction measures?”

- Is an electric utility eligible to receive incentives under both Section 6x and Section 75 for the same costs? If not, which costs should be considered for each statutory section? If so, should Section 6x incentives be considered when determining cost effectiveness of EWR programs?
- Do the terms used in Section 6a(13) and Section 6x of Act 341 describing activities for which incentives may be available, including “energy waste reduction,” “conservation,” “demand reduction,” “other waste reduction measures,” “demand-side programs,” and “peak load reduction,” refer to existing programs (such as the EWR program administered by the Commission under Act 342, or Demand Response programs authorized by the Commission in Integrated Resource Plan proceedings)? What other activities outside these programs might be eligible for an incentive?
- Are “net benefits” in Section 6x the same as “net present value of life-cycle cost reductions experienced by the provider’s customers” in Section 75? If not, how do these concepts differ?
- Electric utilities which make alternative compliance payments to a statewide EWR program administrator under Section 91 of Act 342 are prohibited from receiving a financial incentive under Section 75 of Act 342. Could these utilities receive an SSM under Section 6x of Act 341 for alternative compliance payment costs?

Any interested person may submit written or electronic comments regarding the implementation of an SSM, including but not limited to the above topics. All comments must be filed with the Commission no later than 5:00 p.m. (Eastern time (ET)) on June 16, 2020. Reply comments must be received no later than 5:00 p.m. (ET) on June 30, 2020. Written comments should be sent to: Executive Secretary, Michigan Public Service Commission, P.O. Box 30221, Lansing, MI 48909. Electronic comments (preferred) may be e-mailed to mpscedockets@michigan.gov. All comments should reference Case No. U-20747. If you require assistance prior to filing, contact the Commission Staff at (517) 284-8090 or by e-mail at mpscedockets@michigan.gov. All information submitted to the Commission in this matter will become public information available on the Commission’s website and subject to disclosure.

THEREFORE, IT IS ORDERED that interested persons are invited to file comments on the questions raised by the Commission within this order no later than 5:00 p.m. (Eastern time) on June 16, 2020. Persons wishing to file responsive comments may do so no later than 5:00 p.m. (Eastern time) on June 30, 2020.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Daniel C. Scripps, Commissioner

Tremaine L. Phillips, Commissioner

By its action of May 19, 2020.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

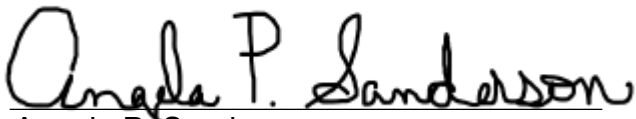
Case No. U-20747

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on May 19, 2020 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 19th day of May 2020.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

GEMOTION DISTRIBUTION SERVICE LIST

kadarkwa@itctransco.com
tjlundgren@varnumlaw.com
lachappelle@varnumlaw.com
awallin@cloverland.com
[bmalski@cloverland.com](mailto:bmalaski@cloverland.com)
mheise@cloverland.com
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mpscfilings@CMSENERGY.COM
jim.vansickle@SEMCOENERGY.COM
kay8643990@YAHOO.COM
christine.kane@we-energies.com
jlarsen@upppo.com
dave.allen@TEAMMIDWEST.COM
bob.hance@teammidwest.com
tharrell@ALGERDELTA.COM
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sculver@glenergy.com
kmarklein@STEPHENSON-MI.COM
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ddemaestri@PIEG.COM
dbraun@TECMI.COOP
rbishop@BISHOPENERGY.COM
mkuchera@AEPENERGY.COM
todd.mortimer@CMSENERGY.COM
jgoodman@commerceenergy.com
david.fein@CONSTELLATION.COM
kate.stanley@CONSTELLATION.COM
kate.fleche@CONSTELLATION.COM
mpscfilings@DTEENERGY.COM
bgorman@FIRSTENERGYCORP.COM
rarchiba@FOSTEROIL.COM
greg.bass@calpinesolutions.com
rabaey@SES4ENERGY.COM
cborr@WPSCI.COM
cityelectric@ESCANABA.ORG
crystalfallsmgr@HOTMAIL.COM
felice@MICHIGAN.GOV
mmann@USGANDE.COM
mpolega@GLADSTONEMI.COM

ITC
Energy Michigan
Energy Michigan
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Cloverland
Cloverland
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Linda Brauker
Village of Clinton
Tri-County Electric Co-Op
Tri-County Electric Co-Op
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Spartan Renewable Energy, Inc. (Wolverine Power Marketing Corp)
City of Escanaba
City of Crystal Falls
Lisa Felice
Michigan Gas & Electric
City of Gladstone

GEMOTION DISTRIBUTION SERVICE LIST

rlferguson@INTEGRYSGROUP.COM

lrgustafson@CMSENERGY.COM

daustin@IGSENERGY.COM

krichel@DLIB.INFO

cityelectric@BAYCITYMI.ORG

jreynolds@MBLP.ORG

bschlansker@PREMIERENERGYLLC.COM

ttarkiewicz@CITYOFMARSHALL.COM

d.motley@COMCAST.NET

mpauley@GRANGER.NET

ElectricDept@PORTLAND-MICHIGAN.ORG

gdg@alpenapower.com

dbodine@LIBERTYPOWERCORP.COM

leew@WVPA.COM

kmolitor@WPSCI.COM

ham557@GMAIL.COM

BusinessOffice@REALGY.COM

landerson@VEENERGY.COM

cmcarthur@HILLSDALEBPU.COM

mrzwiers@INTEGRYSGROUP.COM

Teresa.ringenbach@directenergy.com

christina.crabble@directenergy.com

angela.schorr@directenergy.com

ryan.harwell@directenergy.com

johnbistranin@realgy.com

kabraham@mpower.org

mgobrien@aep.com

mvorabouth@ses4energy.com

suzy@megautilities.org

tanya@meagutilities.org

hvester@itctransco.com

lpape@dickinsonwright.com

Deborah.e.erwin@xcelenergy.com

mmpeck@fischerfranklin.com

CANDACE.GONZALES@cmsenergy.com

JHDillavou@midamericanenergyservices.com

JCAltmayer@midamericanenergyservices.com

LMLann@midamericanenergyservices.com

karl.j.hoesly@xcelenergy.com

kerri.wade@teammidwest.com

dixie.teague@teammidwest.com

meghan.tarver@teammidwest.com

Karen.wienke@cmsenergy.com

Michael.torrey@cmsenergy.com

croziera@dteenergy.com

Integrys Group

Lisa Gustafson

Interstate Gas Supply Inc

Thomas Krichel

Bay City Electric Light & Power

Marquette Board of Light & Power

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Consumers Energy

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GEMOTION DISTRIBUTION SERVICE LIST

stanczakd@dteenergy.com

Michelle.Schlosser@xcelenergy.com

dburks@glenergy.com

kabraham@mpower.org

shannon.burzycki@wecenergygroup.com

kerrmann@atcllc.com

handrew@atcllc.com

mary.wolter@wecenergygroup.com

phil@allendaleheating.com

DTE Energy

Xcel Energy

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Phil Forner

U-20747 Special Distribution

A courtesy of the order was sent to the following MPSC listserves:

Rate Case and Certificate of Necessity

Resource Adequacy

Energy Waste Reduction

Demand Response (which falls under MI Power Grid Workgroups)

Energy Waste Reduction Low Income Workgroup